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Report on Rabbinical Thesis of Laszlo Berkowits
Entitled
"The Halacha of Rabbi Joshua Ben Chananyah"

Mr. Berkowits examines Joshua's halakhic activity and relates it to his private life, to his office in the administration of Gamaliel II and to his Theology and Philosophy. In doing so, he demonstrates that Joshua's Halakhah often reflects consideration for the lower economic classes, to which he himself belongs. As the Ab Beth Din of Gamaliel, he shares with him a deep concern for the survival of normative Judaism endangered by the destruction of the Temple and the influence of militant sects, particularly of fast-growing Christianity. This concern is expressed both in his Halakhah regarding proselytization which is lenient to the extent that he would admit proselytes even without circumcision, and in his theological debates with Minim (Judeo Christians).

All of this is sufficiently, though not exhaustively, documented in the present thesis. Mr. Berkowits arrives at his conclusions by a thorough understanding and reasonable interpretation of the sources, refraining from far-fetched conjectures as are found in a recent book on R. Joshua. While Mr. Berkowits' interpretation of the sources is reasonable throughout, a systematic search for and examination of parallel sources would have enhanced the value of the thesis. Example: On p. 22 Mr. Berkowits cites a significant principle of legislation as that of Joshua, relying on B. Baba Bathra 60b. However, other sources [B. Baba Qama 79b, B. Abodah Zarah 36a, B. Horayoth 3b, P. Shebi'ith IV.2 (35b), P. Shabbath I.4 (3d), P. Abodah Zarah II.8 (4d)] indicate that the principle in question does not originate with Joshua. Nonetheless, such details and the somewhat too brief presentation of the material considered are outweighed by the positive side of the thesis which reflects a solid background in Talmudic studies and scholarly talent.

I, therefore, take great pleasure in recommending the acceptance of Mr. Berkowits' thesis.

Alexander Guttman
Referee

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THE HALACHA OF RABBI JOSHUA BEN CHANANYAH

by

LASZLO BERKOWITS

Thesis submitted in partial fulfillment
of the requirements for the Degree of
Master of Arts in Hebrew Letters and
Ordination

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Referee, Dr. Alexander Guttmann

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DIGEST

The great revolt against the Roman Empire which started in 66 C.E. and ended in 73 C.E., brought political and religious chaos to the land. The legions of Titus committed the Temple to the flames and razed Jerusalem, the political and religious center of the nation, to the ground. The people were in the grip of despair.

The destruction of the Temple brought about a revolution in the inner life of the Jewish people, as well. The sacrificial system of worship, which was an integral part of religious life, vanished with the destruction of the Temple.

Men of foresight and dedication stepped in to breach the gap. Rabbi Yochanan ben Zakkai established a new Sanhedrin in Yavneh which gradually achieved the authoritative voice in religious matters.

Rabbi Joshua ben Chananyah, a disciple of Rabbi Yochanan ben Zakkai, achieved great distinction as a scholar, promulgator of the law, and as a benefactor of Israel. he served as 'Av Beth-Din' under Gamaliel II.

He was a moderate, and a tendency toward leniency is discernible in his approach to halaka. In general, Rabbi Joshua believed that no legislation should be enacted which is a burden to the majority of the community. As an independent thinker, he came into conflict with Gamaliel II on numerous occasions. This conflict eventually led to the removal of Gamaliel from the presidency, and he was not reinstated until Rabbi Joshua accepted his apologies. In general, Rabbi Joshua was deeply esteemed by his colleagues.

Rabbi Joshua was also very active in his defense of Judaism against nascent Christianity. An opponent of all excesses, he counseled moderation in religious as well as civil matters. He is reputed to have intervened with the Roman authorities on numerous occasions in behalf of the welfare of Israel.

He raised up many disciples, the most famous of whom was Akiba ben Joseph.

He was so respected for his wisdom that after his death it was felt that good counsel was perishing from the world.

Rabbi Joshua was one of the significant Tannaim of his generation and was one of the great scholars who laid the foundation for a surviving Judaism.

CHAPTER I

Historical Background

The great revolt against the Roman Empire which began in 66 C.E. and ended in 73 C.E. brought havoc and destruction to the political and religious institutions of Palestine. At the end of the revolt, the country lay in ruins; the populace starved and demoralized, was in the grip of despair. Jerusalem, the Holy city, political and religious center of the nation, fell to the legions of Titus in 70 C.E. Those of the inhabitants who had not fallen victims to the great famine or the sword, were now put to death or sent to the mines of Egypt. Some of the brave warriors were reserved for the gladiatorial combats which were part of the Roman victory celebration.¹

When the legions of Titus entered Jerusalem they sacked the Temple and committed it to the flames. The city itself was razed to the ground. Only the three gates of the palace herod-Hippicus, Phasael, and Mariamne and a portion of the wall were left standing; the former as monuments to the former greatness and original strength of the city, the latter as protection for the garrison that was left in charge.²

The inhabitants of Palestine became impoverished by the seven years war and their numbers were greatly reduced. The fate of Palestine was sealed by the fall of Masada, the last heroic stronghold which fell in 73 C.E. After the fall of Masada the Romans met no military opposition to their cruel rule for sixty years.

The destruction of Jerusalem brought about a violent revolution in the inner life of the Jewish people. The Temple lay in ruins. The sacrificial system of worship, which was the integral part of the religious

life of the people, became a part of past history. Furthermore, with the destruction of the Temple, the Sanhedrin, the judicial-scholarly body no longer functioned. The loss of those two great institutions was sufficient to produce a profound change in the conditions of Jewish life.

Fortunately for the future survival of Judaism, there were men of farsighted vision in Jerusalem who, while the city was still in its death-throes, cast their eyes toward the future.

It is related that during the rebellion when Jews were destroying each other, adding to the terrible tragedy of the siege, Rabban Jochanan ben Zakkai made his escape from the city with the aid of two of his disciples, Rabbi Joshua ben Hananyah and Rabbi Eliezer ben Hyrcanus.³ At the roman camp, Jochanan ben Zakkai pleaded with Vespasian, the commander-in-chief, to spare the members of his academy when Jerusalem was sacked. Jochanan ben Zakkai obtained permission to settle in Yavneh (Jamnia) and establish an academy there.⁴

When news reached Yavneh that the Temple was destroyed, Rabban Jochanan, Joshua and the other scholars tore their garments as the customary sign of mourning. But Rabban Jochanan, observing Rabbi Joshua's distress, turned to him and said, "Do not be dejected, my son. We still possess one means of atonement which is higher than sacrifice; good deeds."⁵

This statement indicates Jochanan ben Zakkai's view that it is possible to reconstruct the foundation of Judaism independently of the sacrificial system of the Temple. To give Yavneh a special status Rabbi Jochanan insisted that when Rosh Ha'Shanah fell on a Sabbath the shofar must be blown there, although it had never been blown anywhere else on a Sabbath but in the Temple.⁶ He was now declaring in fact that Yavneh was

now the center of the Jewish world. Furthermore, he enacted that the Beth Din should assume authority to announce and sanctify the new moon. This has been the prerogative of the Great Sanhedrin in Jerusalem. After the destruction of Jerusalem there was no authority to undertake this important function, on which depended not only the fixing and proclamation of all Jewish holidays but also the correct dating of civil documents. The control of the calendar added to the prestige and authority of Yavneh as the new national religious center. The scholars continued to work in Yavneh and eventually won the recognition of the people. This assembly at Yavneh became the sole guardian of the Torah.

Rabban Gamaliel II succeeded Jochanan ben Zakkai as the Patriarch. He endeavored to strengthen the unity of the people and exercised his authority with a strong hand. Gamaliel II and his court continued to watch over the correct reckoning of the contents of the calendar. To its decision Rabbi Joshua ben Chananyah submitted even though he considered it to be erroneous.⁷

As a rule the decisions issuing from Yavneh were treated as constituting the authoritative standard.⁸

According to the eminent historian of this period, Emil Schurer, "We may assume that this court of justice at Jamnia was voluntarily accepted by the Jewish people as authoritative, not only in matters of ceremonial law, but also in the domain of civil and criminal laws."⁹

While Yavneh exercised the voice of the central authority in matters of Halacha, there were other schools in the vicinity of Yavneh where some of the scholars taught in their own school. Rabbi Joshua ben Chananyah at Pekiin and Rabbi Eliezer ben Hyrcanus taught at Lydda.¹⁰

While the country enjoyed relative peace, all was not peaceful at the Sanhedrin of Yavneh. The times demanded strong moral leadership and Gamaliel II stressed, and at times overstressed, the need for unity. The Shammaites continued to contest the view³ of the Hillelites. In the contests between the disciples of the school of Shammai and Hillel, Gamaliel decreed that the decision should be determined by the majority of votes in the academy, in order to protect by authority the threatened unity of the Law against all attacks. When during a dispute between the Shammaites and the Hillelites it was difficult to obtain unity, both parties insisting on the correctness of their own traditions, a "voice" was heard (Bath-Kol) which was usually considered as a communication from heaven in difficult cases, a voice which said "The teachings of both schools are the words of the living God, but practically only the laws of Hillel are to carry weight." Rabbi Joshua ben Chananyah, a man of reason, alone expressed himself against any decision arrived at by the Bath-Kol. Rabbi Joshua declared, "We do not require a miraculous voice, for the Law is not given to heavenly beings, but for men, who in questionable cases can decide by taking a majority decision, and a miracle cannot in such cases give the decision."¹¹

Thus the danger of fragmentation was reduced to a minimum. Gamaliel II, in order to secure unity, had even excommunicated his brother-in-law, Eliezer ben Hyrcanus. On the occasion of Eliezer's excommunication, Gamaliel is reported in the Talmud to have addressed God in the following words:

It is known to you, Master of the World, that I have not done this for my honor's sake, nor for the honor of my house, but for Your honor, so that strife may not prevail in Israel.¹²

Nevertheless the contemporaries of Gamaliel II did not take his autocratic tendencies kindly. As a matter of fact, his behavior toward Joshua ben Chananyah, who was highly respected by the scholars of the academy, seemed to be too harsh to the members of the court. They impeached Gamaliel and removed him from the presidency of the Sanhedrin.¹³

After Gamaliel was deposed from the presidency of the Sanhedrin, the young Eleazar ben Azariah was appointed to the office. His term of office was of short duration. When Gamaliel apologized to Rabbi Joshua, the Sanhedrin reinstated Gamaliel as its president and Eleazar ben Azariah became "Av Beth-Din," and gave a lecture on one Sabbath of the month.

Rabbi Joshua was the loser because prior to Gamaliel's removal from the office of the presidency, Rabbi Joshua was the "Av Beth-Din."¹⁴ But when Gamaliel was reinstated, they could not remove Eleazar altogether from an official post. It seems that Rabbi Joshua moved to Pekiin to establish his private school there, at this time.¹⁵ Once when his disciples visited him he asked who had given the lecture on the previous Sabbath and whether the lecturer had said anything new. The disciples answered that it was Rabbi Eleazar ben Azariah.¹⁶

Rabbi Joshua did not isolate himself completely from the problems that confronted the community. We find that he went on a mission to Rome in the company of Akiba, Rabban Gamaliel and Eleazar ben Azariah. They set off for Rome, to prevent the wholesale slaughter of the Jews. According to a legend, Domitian had decided to slaughter every Jew in the Roman Empire.¹⁷ It is not known whether they have persuaded Domitian to abandon his plan or whether his murder prevented the massacre.

After the death of Gamaliel, Joshua was the ranking scholar, since

Eliezer ben Hyrcanus was still under a ban. According to circumstantial evidence Rabbi Joshua exercised the leadership of the Patriarch during the time of Hadrian.

The rebuilding of the Temple has never ceased to be the hope of a certain segment of the population. According to Graetz, Hadrian promised to restore the Temple but had reneged on his promise. When Hadrian reneged on his promise to restore the Temple, the people conspired to rebellion once again. A late Jewish legend tells how in the days of Joshua ben Chananyah, that is in the time of Hadrian, the pagan government had granted authority to proceed with the rebuilding of the Temple. But the Samaritans had made protestations and consequently the emperor had issued a decree that the new building should not be erected on the site of the old Temple. This actually amounted to an actual prohibition to rebuild the Temple. Then the Jews gathered together in the valley of Beth-Rimmon. But Rabbi Joshua in order to quiet them, told them the story of the lion and the stork; namely, as the stork ought to be glad to have got its head uninjured out of the jaws of the lion, so also ought they to be glad if they were allowed to live in peace under a heathen government.¹⁸

Schurer maintains that the real reason for the rebellion was the plan of Hadrian to erect a heathen city on the ruins of Jerusalem. The rearing of magnificent buildings and the founding of cities was the work to which Hadrian devoted the energies of his life.¹⁹

Graetz maintains that the reason for the rebellion was the refusal of Hadrian to grant permission to rebuild the Temple. He further maintains that Rabbi Joshua was the chief leader of the people in the time of Hadrian, and appears to have performed the duties of the Patriarch, for

Gamaliel had died at the commencement of Hadrian's reign.²⁰

Despite the inevitability of revolt, which Joshua feared would further weaken the people's strength, he engaged in a continual struggle to bring a semblance of peace. But now he stood alone because Akiba, his former disciple was won over by the Zealots. Joshua was by now a very old man. At the age of ninety, he made his last effort to dissuade Hadrian from his plan to make Jerusalem a heathen city. But Joshua's efforts to make Hadrian give consideration to the sentiments of an outraged community met with failure.

Joshua died soon afterwards. The Jews rose after Joshua's death in revolt against Rome. The thinkers were superseded by men of action. Bar Kokba, who was enthusiastically supported by Akiba ben Joseph, Joshua's most influential disciple, led the rebellion against Rome. It is generally believed that only Joshua's influence prevented this from occurring earlier.

CHAPTER II

Joshua the Man

Rabbi Joshua was born most probably in Jerusalem about the year 35 C.E. He was a Levite and sang in the Temple choir. It is related to us that Rabbi Joshua ben Chananyah went to assist R. Jochanan ben Gudgeda in the fastening of the Temple doors, whereupon the latter said to him: "My son, turn back, for you are one of the choristers, not one of the door-keepers."¹ His mother is attributed to have been extremely desirous of having the young Joshua become a great scholar. Dosa ben Horkinas offers the information that Joshua's mother would take Joshua in his crib to the Synagogue, so that his ears might be accustomed to the sound of the Torah.² While this might be a slight exaggeration of the facts, nevertheless it points to the character of Joshua's family. They were probably worthy citizens of Jerusalem.

He became a disciple of Rabban Jochanan ben Zakkai while he was a young man. His teacher praised him in the following words: "And the threefold cord (Torah, Piety, Wisdom) shall not quickly be broken."³ Rabban Jochanan ben Zakkai had five exceptional disciples: R. Eliezer ben Hyrcanus, R. Joshua ben Chananyah, Rabbi Jose the priest, Simeon ben Methaseel and Rabbi Eleazar ben Arach. When he recounted their qualities, he said of Joshua ben Chananya: "Happy is she that bare him."⁴ Rabbi Joshua married the daughter of a priestly family. She died of an undisclosed illness. When she fell ill, Joshua took it stoically and said, "Aaron is not pleased that I should cleave to his seed and possess a son-in-law like myself."⁵ It is not known whether he ever married again.

What is significant for subsequent history is the fact that Joshua emerged as one of the significant and most capable pupils of Jochanan ben Zakkai. He was endowed with a dry scholarly humor and was conversant in several languages. Above all Joshua inherited the Hillelite traditional love of peace from his teacher, who was one of the disciples of Hillel. Joshua was capable of a courageous act as he demonstrated when he carried Jochanan ben Zakkai out of besieged Jerusalem to the camp of Vespasian.

The destruction of the Temple cast the Jewish people into deep grief. Rabban Simeon b. Gamaliel said: "R. Joshua testified that from the day the Temple was destroyed, there is no day without a curse, the dew has not descended for a blessing, and the flavour has departed from the fruits."⁶

While Joshua did mourn for the destruction of the Temple, he opposed the exaggerated asceticism with which many wished to show their grief. These ascetics wished to abstain from eating meat and drinking wine because the altar on which they had sacrificed animals and poured libations of wine had been destroyed. He argued with them that if they wished to be consistent they ought to abstain from eating figs or grapes, since no more first-fruits were offered. Furthermore, they ought to refrain from eating bread and drinking water, since the festival of drawing water had been discontinued and the showbread as well as the two loaves of the feast of first-fruits could no longer be sacrificed.⁷ With such efforts he intended to make the grief of the loss of the Temple, which had until this time been the center of religious life, less bitter. This attitude of Rabbi Joshua is also indicative of his generally mild and temperate nature. When the Shammaites adopted the severe regulation just before the destruction of the Temple, Joshua responded "that on that day

they overstepped the boundary."⁸ In a dispute over this subject with R. Eliezer, he declared that, "They have poured water into a vessel full of oil, thus causing the costly oil to run to waste."⁹

The enactment did more harm than good. Rabbi Joshua continually advocates the golden mean as the best way of life. In the field of genuine human relationship and human happiness he advocates the love of man as the answer. He said: "An evil eye (grudging), the evil inclination (passion) and hatred of one's fellow creatures put a man out of the world."¹⁰

As a person, he was a truly humble individual, but he did not bear the mark of false modesty. He was a needle maker by trade and apparently he supported himself by the work of his hands. This occupation did not in any degree diminish the respect paid to him as one of the outstanding scholars of Yavneh.

The two most learned of Gamaliel's potential opponents were Eliezer ben Hyrcanus and Joshua ben Chananyah. Gamaliel must have decided early in his office of the Patriarchate, to show who is the real authority in the Beth-Din. Joshua was by nature not quarrelsome. But it was different with Eliezer who was the brother-in-law of Gamaliel. Eliezer consistently refused to accept the Hillelite view of the Law and found himself constantly in opposition to most of the academicians at Yavneh. He was utterly unyielding. Ultimately, as we have observed, Gamaliel excommunicated Eliezer. 2.

The second potential source of opposition to Gamaliel was Rabbi Joshua, who was the "Ab Beth-Din" or Vice President of the Sanhedrin until Gamaliel was deposed from the Presidency. The clash between the aristo-

cratic Gamaliel and the modest needlemaker, Joshua, came to a head on points of law. While later scholars recognize the existence of the conflict between Gamaliel and Joshua, they come to differing conclusions about the real cause of the conflict.

Isaac Hirsch Weiss, in a highly partisan defense of Gamaliel, accuses Rabbi Joshua of actual betrayal of Gamaliel, because Joshua stated his opinion differently in private than in public. Weiss further accuses Joshua of sowing the seeds of the quarrel which led to the eventual removal of Gamaliel from the Presidency.¹¹

Gamaliel's humiliation of Rabbi Joshua is ascribed by Weiss to Gamaliel's temporary lapse of memory:

"Gamaliel forgot that Joshua was still standing because he was so embittered and dejected. That is why Joshua was left standing."¹²

But this could not be a valid explanation because the whole court felt that Gamaliel had done a great injustice. Besides a dynamic and vigorous leader as Gamaliel is not crushed so easily by dissent. Weiss accuses the Beth-Din of an irrational act in their removal of Gamaliel. He feels that the Beth-Din removed Gamaliel in the first flush of anger.¹³

The original sources indicate that a real conflict existed between Gamaliel and Rabbi Joshua. It is my suggestion that Gamaliel, a strong and most capable leader of the Sanhedrin, did not relish the idea of any substantial opposition to his administration, and he certainly could not tolerate a dissenting voice on the part of the "Ab Beth-Din."

What was the nature of the conflict between Gamaliel and Rabbi Joshua? The Talmud records three momentous incidents which culminated in

the dethronement of Gamaliel. The first concerned the dating of the new moon. This most important prerogative belonged to the Sanhedrin, who presumably delegated this authority to the Patriarch.

"On one occasion two witnesses came and said, we saw it in the morning in the east and in the evening in the west. R. Jochanan ben Nuri thereupon said, they are false witnesses. When, however, they came to Yavneh, Rabban Gamaliel accepted them. On another occasion two witnesses came and said, 'We saw it at its proper time but on the night which should have been new moon it was not seen,' --- and Rabban Gamaliel accepted their evidence. Rabbi Dosa ben Harkinas said they are false witnesses. 'How can men testify that a woman has born a child when on the next day we see her belly still swollen?'

Said Rabbi Joshua to him, 'I see (the force of) your words.' Thereupon Gamaliel sent Akiba to Joshua to say 'I enjoin upon you to appear before me with your staff and your money on the day which according to your reckoning should be the day of Atonement...' Rabbi Akiba went to Rabbi Joshua and found him in great distress. He said to him: I can bring proof (from Scripture) that whatever Rabban Gamaliel has done is valid, because it says 'These are the appointed seasons of the Lord, Holy convocations, which ye shall proclaim in their appointed seasons.'

Joshua then went to R. Dosa ben Horkinas, who said to him: 'If we call in question the Beth-Din of Rabban Gamaliel, we must call in question the decisions of every Beth-Din which has existed since the days of Moses up to the present time.'

Then, Rabbi Joshua took his money and his staff and went to Rabban Gamaliel on the day which the Day of Atonement fell according to his reckoning. Rabban Gamaliel rose and kissed him on his head and said to him: 'Come in peace, my teacher and my disciple - my teacher in wisdom and my disciple because you have accepted my decision.'¹⁴

Gamaliel acted to assert his authority. To impress his view upon the members of the Beth-Din he decided to make an example of Rabbi Joshua.

As Vice President of the Beth Din, Joshua was himself qualified to fix the calendar. In fact, when Gamaliel went to receive a warrant from the Roman Governor of Syria, Joshua took his place and decided in the intercalation of a month.¹⁵ Furthermore, since Dosa ben Horkinas dissented as well from Gamaliel, why was he not rebuked as well? There must be a special reason why Gamaliel selected Joshua for rebuke. The answer lies in the fact that by silencing Joshua, who held the next highest rank to his own in Israel, Gamaliel must have aimed at silencing all opposition.

The second incident concerned blemished firstborn animals. Now, many Jews still paid their tithes to priests and even handed over their first-born animals which were due to be sacrificed on the altar. What was to be done with a sheep or goat that could no longer be sacrificed according to the ritual? The Halakah agreed upon that it should be left to graze among the flock of a priest, but the priest might not use it for his own purposes unless it became blemished. The question was, could a priest be trusted in such a case? It would be clearly advantageous for him to inflict a deliberate blemish on the animal and thus acquire it immediately instead of allowing it to graze for many years. Joshua ruled that if the priest was a "chaver" his honor should not be questioned on such occasions. The Court overruled him and decided that every priest whether a chaver or an Am-Ha'Aretz must be under suspicion until he could prove that the blemish was of natural origin.

Rabbi Zadok, who was a priest, privately confided to Rabbi Joshua that among his flock grazing in the field there was a first-born that cut its lip.

"He came before Joshua. He said to him: Have we made any difference between a priest who is a chaver and a priest who is an Am-Ha'arets? Rabbi Joshua replied, Yes. He thereupon went to Gamaliel and asked 'Have we made any difference between a priest who is a chaver and a priest who is an Am-Ha'arets?' Gamaliel replied, no. Rabbi Zaddok said to him: But Rabbi Joshua told me 'Yes.' Gamaliel said: Wait until the great debaters enter the Beth-Hamidrash. When they entered the Beth Hamidrash the questioner arose and asked: Have we made any difference between a priest who is a chaver and one who is an Am-Ha'arets? Rabbi Joshua replied 'No.' Thereupon Rabbi Gamaliel said: Was not your answer 'Yes' reported to me in your name? Joshua, stand on your feet and let them testify against you. Rabbi Joshua stood up on his feet and said, how shall I act? If indeed I were alive and he were dead, the living can contradict the dead. But since both he and I are alive, how can the living contradict the living? And Rabban Gamaliel was sitting and discoursing while Rabbi Joshua stood on his feet, until all the people murmured and said to Hutzpith the interpreter, 'Silence!' And he was silent."¹⁰

The more closely one examines this incident the more one is obliged to come to the conclusion that Rabbi Zaddok acted provocatively. Had he not known what the ruling of the Court was? Besides, why did he betray Rabbi Joshua's confidence? It is significant to note that Rabbi Joshua had an independent view although he could not enforce it since he had no power to do so. Meanwhile the conflict was developing into a crisis for the Presidency of Gamaliel, because he had antagonized too many members of the Sanhedrin by his high-handed treatment of the highly esteemed Joshua. A further incident brought the crisis to a head.

It was during the time of Gamaliel that the Shemone-Esreh were edited and their repetition three times a day made mandatory. Rabbi Joshua was concerned about the difficulty this would offer the large

masses of uneducated people, and the time it would take. He composed an abbreviated version of the Shemoneh Esreh, which is recorded in the Talmud.

"Give us understanding, O God, to know Thy ways and circumcise our heart to fear Thee; forgive us so that we may be redeemed; remove our sufferings and fatten us in the pastures of Thy land; gather our dispersions from the four corners of the earth and let those who judge erroneously judge according Thy word; lift up Thy hand against the wicked and let the just rejoice in the building of Thy city, the restoration of Thy Temple, the sprouting of the horn of Thy servant David, and the setting of a light for the son of Jesse, Thy Messiah; for Thou answerest before Thou art called upon. Blessed art Thou, O Lord who hearkenest to prayer."

But it was Joshua's definite views on the Maariv prayer that brought on the third and final clash between Gamaliel and Joshua. Despite Joshua's opposition the Maariv prayer had been made obligatory by the Beth Din. Joshua believed that the recital of the Maariv prayer should be voluntary. The question was still debated by Abaye and Raba in the Talmud a century and a half later.

"With regard to the evening prayer Rabban Gamaliel says it is compulsory, whereas R. Joshua says it is optional. Abayeh says the halaka is as stated by the one who says it is compulsory. Raba says the halakah follows the one who says it is optional.

It is related that a certain disciple came before R. Joshua and asked him; Is the evening prayer compulsory or optional? He replied: It is optional. He then presented himself before Rabban Gamaliel and asked him: Is the evening prayer compulsory or optional? He replied it is compulsory. But, he said, did not Rabbi Joshua tell me that it is optional? he said: Wait until the "Baale Tresin" (the armored ones - armed with scholarship) come to the Beth Hamidrash. When they came in, someone rose and asked: Is the evening prayer compulsory or

optional? Rabbi Gamaliel said, it is compulsory. Turning to the sages, Rabban Gamaliel said: is there anyone who disputes this? Rabbi Joshua replied, No! Gamaliel said to him: Did they not report you to me as saying that it is optional? He then went on: Joshua stand up and let them testify against you! Rabbi Joshua stood up and said, were I alive and he dead the living could contradict the dead. But now that he is alive and I am alive how can the living contradict the living? Rabban Gamaliel remained sitting and expounded, while Rabbi Joshua remained standing, until all the people there began to shout and say to Hutzpith the interpreter; Stop! And he stopped. Then they said, how long is he to go on insulting him? Come, let us depose him!¹⁸

Then and there they appointed the young Eleazar ben Azariah to the office of President. Joshua was passed over because he was directly involved in the dethronement of Gamaliel. Akiba ben Joseph, the most worthy candidate, was poor and lacked noble birth, being descended from a proselyte.

On "That Day" as the specific day is referred to in the Talmud, restrictions were removed that barred the academy to scholars who were not deemed to meet the standard set by Gamaliel. Gamaliel felt that they were unworthy disciples.¹⁹ On that day also they passed Rabbi Joshua's ruling which abolished racial restrictions against the descendants of Ammon and Moab.

Rabbi Joshua was not a man to hold a grudge. When Rabban Gamaliel came to Pekiin to offer his apologies to Rabbi Joshua, he noticed what a miserable house served as a home for Joshua. It was a soot-blackened hovel. Rabban Gamaliel said to Joshua

"From the walls of your house it is apparent that you are a smith. He replied: alas for the generation of which you are the

leader seeing that you know nothing of the troubles of the scholars, their struggles to support and sustain themselves! He said to him: I apologize, forgive me. He paid no attention to him. 'Do it,' he said, 'out of respect for my father. He then became reconciled to him.'²⁰

Rabbi Joshua was not a handsome man, but he was in addition to his great scholarship the possessor of a keen wit. It is related that:

"Once the emperor's daughter said to R. Joshua: Such comely wisdom in an ugly vessel! He replied, 'Learn from your father's palace. In what is the wine stored?' 'In earthen jars,' she answered. 'But all people store wine in earthen vessels, and thou too likewise! Thou shouldst keep it in jars of gold and silver! So she went and had the wine replaced in vessels of gold and silver, and it turned sour. Thus said he to her, the Torah is likewise! But are there not handsome people who are learned too? 'Were they ugly they would be even more learned,' he retorted."²¹

Even Gamaliel did not escape his sharp wit. According to the Mekilta, when Rabbi Gamaliel invited all the great scholars of Israel to a feast at his home, he, Gamaliel served them. (As is the custom of the Semitic people, the host serves his guests.) When the scholars saw this, they said, "We are not worthy that he should serve us." Rabbi Joshua said, "Let him serve, for we find that a greater man than Gamaliel served men." They asked, "Who was it?" He answered, "Abraham."²²

In a rare autobiographical remark Rabbi Joshua admits that very few people came out the better in an argument with him. Actually he admits only three such incidents.

"Rabbi Joshua ben Chananyah remarked:
'No one has ever had the better of me except a woman, a little boy and a little girl. What was the incident with the woman? I was once staying

at an inn where the hostess served me with beans. On the first day I ate all of them leaving nothing. On the second day too I left nothing. On the third day she overseasoned them with salt and as soon as I tasted them, I withdrew my hand.' 'My master,' she said to me, 'why do you not eat?' 'I have already eaten,' I replied, 'earlier in the day.' 'You should then,' she said to me, 'have withdrawn your hand from the bread.'

What was the incident with the little girl? I was once on a journey and observing a path across a field, I made my way through it, when a little girl called out to me. 'Master! Is not this part of the field?' 'No,' I replied, 'this is a trodden path.' 'Robbers like yourself,' she retorted, 'have trodden it down.'

What was the incident with the little boy? I was once on a journey when I noticed a little boy sitting at a cross-road. 'By what road,' I asked him, 'do we go to the town?' 'This one,' he replied, 'is short but long and that one is long but short.' I proceeded along the short but long road. When I approached the town, I discovered that it was hedged in by gardens and orchards. Turning back, I said to him, 'My son, did you not tell me that this road was short?' And he replied, 'Did I not also tell you: but long?' I kissed him upon his head and said to him 'Happy are you, O Israel, all of you are wise, both young and old.'²³

Numerous anecdotes are related of Rabbi Joshua which deal with his defense of Judaism. When he was in Rome on one of his journeys he is reported to have been asked:

"If your God has no desire for idolatry, why does he not abolish it? He replied, 'If it was something unnecessary to the world that was worshipped He would abolish it; but people worship the sun, moon, stars and planets, should He destroy His universe on account of fools!' They said if so, He should destroy what is unnecessary for the world and leave what is necessary for the world!' He replied (if He did that) He would merely be strengthening the hands of the worshippers of these, because they would say 'be sure that these are deities, for behold they have not been abolished.'²⁴

The pagan Roman world was accustomed to visible Gods, and they were irked at not being able to see the God of the Jews. Hadrian is reported to have asked Rabbi Joshua "I wish to see your God!" Joshua replied: "You cannot see him." "But I want to see Him!" Joshua said that he cannot. "The sun is merely one of the spirits that serve the Holy One, blessed be He. If you cannot look at him, how much less would you be able to look upon his Master."²⁵

Even his exegesis throws light on the deeply human and positive nature of Rabbi Joshua. Eliezer ben Hyrcanus was his lifelong opponent in debates. Commenting on the verse:

"Let the king and Haman come unto the banquet." (Esther, V:4.) Our Rabbis taught: what was Esther's reason for inviting Haman? R. Eliezer said, 'She set a trap for him, as it says, 'Let their table before them become a snare.' (Ps. LXX:23.)

R. Joshua said: She learnt to do so from her father's house, as it says, 'If thine enemy be hungry give him bread to eat etc. (Prov. XXV: 21.)²⁶

Similarly, Rabbi Joshua differed sharply with R. Eliezer in regard to the question, whether the nations of the world have a share in the world to come. Rabbi Joshua inclines to be inclusive and universal whereas Rabbi Eliezer is exclusive and particularistic. In spite of the lifelong antagonism between R. Joshua and R. Eliezer, in matters of Halaka, R. Joshua visited Eliezer in the company of Sages and annulled the ban, after the death of Eliezer.²⁷

Rabbi Joshua had a remarkable group of disciples. The earliest and most important disciple was Akiba ben Joseph, who became a colleague of Joshua as he grew and matured in study. Joshua ordained Akiba as a Rabbi.²⁸

Ben Azzai, who was another of Joshua's disciples, had a favorite saying, which reflects the ethical teachings of Joshua.

"Despise no man and consider nothing impossible; for no man lives who has not his hour, and no thing exists that has not its place."²⁹

Rabbi Joshua was a great teacher of his generation, a good counsellor and a defender of Judaism from all attacks. Toward the end of his days, peace was threatened once again and the Romans threatened to destroy Judaism. The Talmud records Joshua's final advice to his disciples:

"When the soul of Rabbi Joshua ben Chananyah was about to go to its rest, the Rabbis said to him: what will become of us at the hands of the unbelievers? He answered them: 'Counsel is perished from the children, their wisdom is vanished.' (Jer. XLIX:7.)

If good counsel has perished from the children, the wisdom of the peoples of the world is vanished as well.³⁰

He had an implicit faith that if the Jews were not wise enough to refrain from rebellion against Rome, neither were the Romans wise enough to destroy Judaism.

While Rabbi Joshua did not possess the power of Gamaliel nor the captivating image of an Akiba, he impresses us as he did his contemporaries, as a man of good counsel, who exerted a wholesome influence on his colleagues. He is the constant seeker of peace. He was a man of great vision and deep insight. His concern was a concern for the welfare of the community and the secure survival of an enlightened Judaism.

CHAPTER III

The Halaka of Rabbi Joshua

Rabbi Joshua, a man of diverse interests, was primarily a scholar of the law. While his activities include the efforts of pacification of the community and the constant search for the continuance of the welfare of the people, he was at the same time an important man in the formulation of rabbinic legislation during the latter half of the first century C.E., and the first decade of the second century C.E.

As it was discussed in the previous chapter, Rabbi Joshua was a strong advocate of the principle of moderation in aspects of daily living. His philosophical approach is that of a counsellor, exercising a moderating influence upon the heated issues of his turbulent age. While he was conscious of the teachings of the past, he exhibited a tendency toward adaptation to new circumstances. Therefore he was a most useful member of the Tannaim of the second generation, whose primary task was to adapt Judaism to the radically new social and political circumstances, and consolidate the foundation of rabbinic Judaism.

Two basic tendencies are discernable in the halaka of Rabbi Joshua. First, he is pragmatic. Second, in most cases he tends toward a lenient position with certain exceptions. These exceptions are in cases of laws concerning women, and in specific laws concerning sexual behavior. We shall, then, turn to the examination of the significant aspects of the halaka of Rabbi Joshua.

Rabbi Joshua is known for numerous general principles. One of the

basic general principles, which underly his philosophy of the law, is stated in Baba Bathra:

"Do not put on the people more obligations than the majority is capable of bearing."¹

Thus in matters of halaka he was conscious of the pain and hardship that the common man must endure and he did not want to make his burden excessive. As a matter of fact, Rabbi Joshua wanted to reduce them whenever possible. His opinion of the rabbinic laws concerning vows, for example, was that they were not solidly based but 'flying in the air,' and that

"the laws on Sabbath, Feasts and Desecration of Holy Things, have little Scriptural authority; many halakas are like mountains hanging on hairs with nothing to support them."²

To the halakas which had no scriptural support he applied the riddle of the first pair of tongs:

"One pair of tongs was made with the help of another pair of tongs, but how did the first pair of tongs come about?"³

As a disciple of the Hillelite tradition he must have considered the Torah to be the original pair of tongs. In this manner he tried to limit the extent of rabbinic legislation to enactments that can be traced back to scripture. Rabbi Joshua exerted the dominant influence in negating the role of miracles in the formulation of Halaka. In this matter he was supported by Gamaliel the Patriarch. While post-biblical miracle in the form of the Bat Kol played a role in the halaka of Hillel, now, during the time of Rabbi Joshua it was negated because of the role that miracle played in nascent Christianity.⁴

In his discussion of the role of miracle in Talmudic Judaism, Guttman raised the question "Why was then the Bat Kol disregarded in the case of Rabbi Eliezer versus the Sages?"

"The employment of miracles, among them the Bat Kol, becomes more weighty if we realize that this was done by a personality who appeared to be friendly toward Christianity and its leaders, as was R. Eliezer. The suspicion against him was so strong that the Romans in the course of their persecution of the Christians arrested him."⁵

The rabbis felt so strongly about this matter that consequently Rabbi Eliezer was excommunicated, and he remained under the ban for the remainder of his life. In this matter and in numerous others Rabbi Joshua was in opposition to R. Eliezer.

It was during the presidency of Gamaliel that the fixed 'Tefillah,' was introduced by Gamaliel.

"Rabban Gamaliel says: 'every day a man should say the eighteen benedictions.' R. Joshua says; 'an abbreviated eighteen.' R. Akiba says; 'If he knows it fluently he says the original eighteen, and if not an abbreviated eighteen.' R. Eliezer says 'If a man makes his prayers fixed it is not a genuine supplication.' Rabbi Joshua says: 'If one is travelling in a dangerous place, he says a short prayer, saying, 'Save, O Lord, Thy people the remnant of Israel; In every time of crisis may their requirements not be lost sight of by Thee. Blessed art Thou, O Lord, who hearkenest to prayer.'"⁶

From the quotation above we get a definite example of the pragmatism of Rabbi Joshua in matters of halaka. First in regard to the recital of the Tefillah every day, Rabbi Joshua in opposition to Gamaliel offers an abbreviated version. This reflects his belief that the common man should not be burdened at least in terms of time with a lengthy prayer. He knew

the life of the common man since he himself earned a livelihood by the work of his hands. Therefore, he urges the adoption of a brief prayer.

Second, with respect to the traveler who finds himself in dangerous territory, here too Rabbi Joshua advises the adoption of the abbreviated version of the Tefila. It is practical for reasons of personal safety not to tarry too long in such a place. Perhaps these two points add some illumination on the life of Rabbi Joshua. He seems to know the life of the people, and does not give an impression of himself as being shut off from the main street of life in his day.

Similarly, in regard to the law of reciting the 'Shema' Rabbi Joshua takes the lenient position in contradistinction to Rabbi Eliezer. In this case we find the following exchange between Rabbi Joshua and Rabbi Eliezer:

"From what time may one recite the Shema in the morning? From the time that one can distinguish between blue and white. Rabbi Eliezer says: 'between blue and green, and has time to finish until sunrise.' Rabbi Joshua says: 'Until the third hour of the day, for such is the custom of kings, to rise at the third hour. If one recites the Shema later he loses nothing, being like one who reads the Torah.'"

Consistently in matters that apply to the community as a whole, Rabbi Joshua exhibits a sense of concern.

The celebration of any festival is a time of worship and enjoyment, according to the tradition of Judaism. It is not an occasion merely for self-indulgence. Rabbi Joshua advocates the rule of the golden mean in regard to the celebration of the festivals. With regard to the festivals he says:

"Divide it, half for the Lord, half of it for yourselves."⁸

Deeply rooted in the greater realities of his time, Rabbi Joshua is keenly aware that a society must be engaged in constructive work if it is to conduct its social life in an organized manner. He was aware that not everyone can devote as much time to the study of the law as the scholars. He knew that most people are engaged in the mundane tasks of everyday life, which leaves little time for the pursuit of the study of the law. Therefore, he places a great value on the performance of work in order to earn a living. He said:

"Learn one halaka in the morning and one in the evening, the rest of the day one should be occupied earning a living. If one does this, it is considered as if he had studied the entire Torah."⁹

This is clearly an attempt to endorse the value of honest work and to raise the prestige of the common man of the people. Furthermore, he tried to inculcate a practical and realistic attitude to the circumstances at a time when visionaries made converts to their cause among the people. To those who preached that the troubles of the day were the 'Pangs of the Messiah' and that the end of the world was imminent, he said:

"I received a tradition from Rabbi Yohanan ben Zakkai who received it from his teacher, and his teacher from his teacher, as an halaka given to Moses on Sinai, that Elijah will not come to declare unclean or clean or remove from afar or to bring near, but only to remove afar those families that were brought near by violence and to bring near those that were removed afar by violence."¹⁰

Rabbi Joshua, living at a time when Christianity was rising and its leaders were waging a successful effort to gain converts, was not opposed to proselytes to Judaism. In fact, he was lenient in his demands upon a proselyte.

It is recorded that when Gamaliel was deposed:

"On that day Judah an Ammonite proselyte came before them in the Beth Ha'Midrash. He said to them: 'Am I permitted to enter the assembly? (for marriage.)' Rabbi Joshua said to him: 'You are permitted to enter the congregation.' Said Rabban Gamaliel to him: 'Is it not already laid down, An Ammonite or a Moabite shall not enter into the assembly of the Lord?' (Deut. XXIII, 4.) R. Joshua replied to him: 'Do Ammon and Moab still reside in their original homes? Senacherib king of Assyria long ago went up and mixed all the nations as it says, 'I have removed the bounds of the peoples and have robbed their treasures and have brought down as one mighty their inhabitants. (Isa. X:13.) And whatever strays from a group is assumed to belong to the larger section of the group. Said Rabban Gamaliel to him: 'But has it not been said, But afterward I will bring back the captivity of the children of Ammon, saith the Lord' (Jer. XLIX:6), so that they have already returned? To which Rabbi Joshua replied: 'And has it not been said, And I will turn the captivity of My people Israel.' (Amos IX:14.) and they have not yet returned? Forthwith they permitted him to enter the congregation."¹¹

There are several points of significance in this passage. First, it demonstrates the agility of the mind of Rabbi Joshua. Second, his scholarship was so widely accepted by his colleagues that they voted with him against the former president of the academy, when both were on equal levels of power. It further demonstrates Joshua's use of scripture in support of halaka. Above all, it informs us of Rabbi Joshua's leniency with respect to proselytes.

Rabbi Joshua had a debate with Rabbi Eliezer as well in regard to proselytes. Although the halaka is not decided according to the view of Rabbi Joshua, it further illuminates the attitude of Rabbi Joshua toward proselytes.

"Our Rabbis taught: If a proselyte was circumcised but had not performed the prescribed ritual ablution, Rabbi Eliezer said, 'Behold he is a proper proselyte; for so we find that our forefathers were circumcised and had not performed the ablution.' If he had performed the prescribed ritual ablution but had not been circumcised, Rabbi Joshua said, 'Behold he is a proper proselyte; for so we find that the mothers had performed ritual ablution but had not been circumcised.'"¹²

While Rabbi Joshua has a tendency for leniency in the halaka, in the laws regarding women he takes the strict position. We do know that he was married for a brief time and that he lost his wife and there is no record of his having married again. To say that he was subjective in matters of law concerning women, because he was physically ugly would be merely a conjecture. Generally, he is strict in matters that involve women. His famous dictum is recorded in the Talmud that "There is no guardian against unchastity."¹³

No one is immune from the possibility of having forbidden intercourse with one forbidden to her and may thus have become unfit for priestly marriage. There is a basic mistrust of the human capacity to control the sexual passion. This might be the better part of wisdom and Rabbi Joshua's attitude might reflect this type of wisdom. For example, in the case of a woman who;

"If she says, 'I was injured by a piece of wood,' and he (the husband) says 'No. Thou hast had intercourse with a man' -- Rabban Gamaliel and Rabbi Eliezer say: She is believed and Rabbi Joshua says: 'We do not live by her mouth (we do not go by her statement) but she is in the presumption of having had intercourse with a man, until she brings proof of her statement.'¹⁴

Clearly, the woman is speaking in self-defense for the future of her marriage depends upon the decision of the court. But Rabbi Joshua implies that we need witnesses in a legal matter and he would not rely on subjective testimony. But on the other hand Gamaliel is also concerned with the law and he must have been concerned with the reasonableness of the law, yet we find that Gamaliel, together with Rabbi Eliezer, takes the lenient position.

Rabbi Joshua is even strict in cases where a witness is available to testify. Concerning the woman whose husband died and a witness came and reported his death, R. Gamaliel ruled that the woman may remarry. But Rabbi Eliezer and Rabbi Joshua ruled that:

"A woman may not be allowed to marry again on the evidence of one witness."¹⁵

This decision is very strict when we consider the nature of the times. There was continual social upheaval during this period, smaller insurrections were frequently followed by rebellion and bloodshed. There must have been numerous cases where a woman lost her husband in battle and witnesses were scarce to testify to the death of the husband. Even here, under such circumstances, Rabbi Joshua seems to insist on the testimony of two witnesses. He might have thought that it is rather easy to procure a witness, but to obtain two, is a different matter. To obtain

two witnesses whose testimony would be harmonious is a basic requisite in Jewish law.

In cases involving levirate marriage Rabbi Joshua maintains by implication that a woman should not be forced into a marriage. In a case where two dumb sisters, one an adult, the other a minor, were married to two brothers. If the husband of the older one died:

"Rabbi Eliezer says, we should teach the young one to refuse. (to live with the man as husband and wife) Rabban Gamaliel says: If she refuses, she refuses, and if not, let her wait until she grows up and then the other one (the older one) is free because this is a case of being a sister of the wife.

Rabbi Joshua says: Woe to his wife and woe to his brother's wife. He gives his wife a bill of divorce and the brother's wife Chalitzah.¹⁵

Rabbi Joshua's position seems to be the most logical. Levirate marriage is primarily a misfortune. It is a form of forced marriage. In this particular case it is a misfortune, because he has to divorce his wife. This is a very strict measure.

In the matter of a 'Sotah,' a woman who is suspected by her husband of infidelity has to submit to the ordeal of drinking the bitter water to establish her innocence, Rabbi Eliezer and Rabbi Joshua agree that one witness is believed.¹⁷

In another case Rabbi Joshua seems to be more lenient than Rabbi Eliezer:

"If a man warned his wife and she secluded herself (with another man) even if he heard it from a flying bird, he divorces her and gives her the marriage settlement. Such was the statement of Rabbi Eliezer. Rabbi Joshua says: (He does not do so) until women who spin by moonlight discuss her. (namely until she becomes a public scandal).¹⁸

Rabbi Joshua disputed with Rabbi Eliezer concerning the definition of a bastard. While Eliezer maintained that the offspring of a union of forbidden degree is a bastard, Rabbi Joshua said that a bastard is the offspring of any union, the penalty for which is death at the hands of the Beth Din.¹⁹ This is a lenient view because the penalty of the Beth-Din is applicable to a less extensive area than the penalty for a union of forbidden degrees.

In the society of the day, it was not unusual practice for a father to give his daughter away in marriage while she was a minor. In such a case Rabbi Joshua, in opposition to the view of Rabbi Eliezer, said that her husband has the right to anything she finds, to the work of her hands, to annul her vows; the general principle being that she is regarded as his wife in every respect, except that she may leave him by a declaration of refusal.²⁰

Although Rabbi Joshua is generally strict in matters of laws related to women, and had entertained perhaps a lower esteem of women than some of his colleagues, nevertheless he recommends that if a man was once married in his youth, he should try to marry again in his old age. This statement of Rabbi Joshua is motivated by his view that the duty of the propagation of children never ceases.²¹

Rabbi Joshua was opposed to any excesses in law as well as in observance of ritual. Especially he expressed a moderate view in the observance of the mourning ritual. He was against excessive mourning.

"Our Rabbis taught: During the first three days a mourner is forbidden to put on phylacteries. From the third day onward, the third day included, he is allowed to put

on phylacteries and he does not take them off at the entry of visitors. This is the view of Rabbi Eliezer. Rabbi Joshua said, a mourner is forbidden to put on phylacteries the first two days. From the second day onward, the second day included, he is allowed to put on phylacteries, but at the entry of visitors he takes them off.²²

We find that he was especially concerned with the tendency of ascetic sects to indulge in excessive mourning after the destruction of the Temple. He argued with them logically and convincingly, supporting his view with scripture. Rabbi Joshua said to them that not to mourn at all is impossible, because the blow has fallen. To mourn overmuch is also impossible because we do not impose on the community a hardship which the majority cannot endure. Finally he cited Malachi: "Ye are cursed with a curse, yet ye rob me, even this whole nation." (Malachi III:9.)²³

Just as Rabbi Joshua was opposed to excesses in observance of certain rituals, he was opposed to excesses of enactments. About the time of the siege of Jerusalem, a general boycott of the gentile world was declared at an Assembly of the Shamaites. When later, Rabbi Joshua discussed the 'Eighteen Issues' as these enactments were called, with his lifelong opponent Eliezer ben Hyrcanus, and Eliezer held that 'on that day the Measure of the Torah was well filled' Rabbi Joshua retorted:

"That day of the eighteen Issues was an evil for Israel as the day of the Golden Calf; for on that day the Measure was obliterated; it was like pouring water into a barrel full of oil - the more water goes in, the more oil is wasted."²⁴

Rabbi Joshua was more lenient toward non-Jews than his colleagues. As we have discussed earlier, Rabbi Joshua did not require circumcision

from a convert. He merely demanded ritual immersion. One of the famous converts to Judaism was Aquilas, the nephew of Emperor Hadrian. First Aquilas went to Rabbi Eliezer. As the Midrash informs us, Rabbi Joshua showed forbearance to Aquilas the proselyte:

"Better is the forbearance which Rabbi Joshua showed Aquilas the proselyte than the impatience shown to him by Rabbi Eliezer; otherwise he might have returned to his leaven. (Heathenism)"²⁵

It cannot be said that Rabbi Joshua is consistently lenient in the matters of law. He was an independent thinker and judged each case on its own merit. For example, in the matter of 'Erub' for the Sabbath, Rabbi Eliezer was of the opinion that an Erub can be made from all kinds of food except with salt and water. Rabbi Joshua held that a whole loaf of bread is a valid Erub, regardless of its size, as long as it was a whole unit. This is certainly stricter than the attitude of Rabbi Eliezer.²⁶

While the halaka is of primary significance in the activities of Rabbi Joshua, yet there was another significant area of activity in which Rabbi Joshua distinguished himself. He was one of the great defenders of Judaism in his numerous and distinctive debates with non-Jews. Among some notable acts of Rabbi Joshua, it is recorded that he exiled his nephew Hanina for alleged association with the Minim of Capernaum.²⁷

Among his debates with non-Jews, it is recorded that Rabbi Joshua appears to have debated a 'Min' before the Emperor, on the question of the election of Israel. He maintained that the destruction of the Jewish State was not to be construed as God's rejection of His people.²⁸

A portion of this debate is reported by R. Joseph, an Amora of the third century. Rabbi Joshua was standing in the house of Ceasar. A certain 'Min' showed him (in pantomime) a nation whose Lord hath turned away His face from them. He, (Rabbi Joshua) showed him His hand stretched out over us. Ceasar said to Rabbi Joshua, "What did he show you?" "A people whose Lord hath turned away His face from them, and I showed him His hand stretched out over us."²⁹

It is obvious from the nature of the opponent's argument that he was a Christian, because it was at this period that the question of the rejection of Israel is an important concept in the doctrines of nascent Christianity.

On another occasion, Rabbi Joshua repudiated the scornful remark of a 'Min' who, citing Micah 7:4 "The best of them is like a brier," stigmatized Jews as briars. Rabbi Joshua retorted: "Fool, look at the end of the verse." "The upright (is sharper than a thorn hedge)." "What is meant by the best of them is like a brier? Just as these briars are a protection to the gap in the wall, so the good among us are a protection to us."³⁰

But despite his polemics against the 'Minim,' Rabbi Joshua finally disagreed with Rabbi Eliezer on the question of whether the Gentiles have a share in the world to come. He interpreted the verse in Psalms 9:18. "The wicked shall go to Sheol, and all the nations that forget God," thus; If the verse had said "the wicked shall go into Sheol and all the nations;" and had stopped there, I should have agreed with you (that non-Jews have no share in the world to come), but as it goes on to

say, "who forget God," it means that there are righteous men among the nations who do have a share in the world to come.³¹

Rabbi Joshua further disagreed with Rabbi Eliezer on the important concept of the salvation of Israel. Rabbi Joshua maintained that salvation would come in its due time independently of the actions of Israel. He based his arguments on Isaiah 52:3. "Ye were sold for naught and without silver shall ye be delivered." Consequently, Rabbi Joshua asserted that when the proper time will come, salvation will come to Israel regardless of whether they repent or not.³²

During one of his journeys to Egypt Joshua is reported to have been asked twelve foolish questions by Alexandrian Jews. They seem to have framed their questions in the language of Jewish Christians, who had been influenced by Paulinian Christianity. Joshua listened patiently to their questions. "When the dead are resurrected will it be necessary to sprinkle water on them, since they have been in contact with other dead bodies?" Rabbi Joshua replied "This matter will be settled at the resurrection itself."³³

Most of the other questions were intended to ridicule the halaka, concerning ritual cleanliness; but among them was a question that Rabbi Joshua could answer seriously: "May the daughter of a prostitute marry a priest?" He said: "Her mother's sins do not disqualify her if she is pure herself." Another question raised a legal point: each of two lepers had brought a bird sacrifice to the priest for cleansing. One leper then died, but it was found that his offering had been mistakenly assigned to the ceremony of cleansing the other. What now was to be done

with the second sacrifice? Joshua answered the fool according to his folly: "The only solution would be for the surviving leper to confer all his goods on others, and thus become a pauper; the bird sacrifice would then be accepted without question as his sin offering."

According to reports Hadrian, like his predecessors, was irked at not being able to see the God of the Jews. Hadrian believed that Rabbi Joshua might enable him to see this great sight. "I wish to see your God!" he said. Rabbi Joshua replied: "You cannot see Him." "But I want to see Him!" It was during the summer solstice and Joshua led him into the open and said: "Look up at the sun." Hadrian replied: "I cannot." Rabbi Joshua said: "The sun is merely one of those spirits that serve the Holy One, blessed be He. If you cannot look at it how much less would you be able to behold the Master."³⁴

Rabbi Joshua's halakic interest extends over the whole range of problems that the Sanhedrin of Yavneh and the rabbis of the period were concerned with. While the scope of his activity in the field of halaka is complex and extensive, some basic tendencies seem to emerge as one observes the nature of his halaka. Above all, one is continually impressed with the reasonableness of his views. If there is any single underlying tendency in his halaka, it is the fact that when he deals with matters that touch the life of the whole community, he tends toward a lenient position. He is opposed to any excessive legislation that would prove to be a burden to the community. This should come as no surprise, because he is the representative of the Hillelite tradition, a tradition that is marked by legislation that reflects the need of the time and one which serves the beneficent ends of the community.

Nevertheless, in some matters he is very strict. In particular he is very strict in laws that deal with sexual behavior. Apparently Rabbi Joshua thought that in matters of sexual behavior, human nature is in need of the restrictions of the law. He believed that the ethical nature of man is not strong enough to exercise sufficient control over the sexual passion. Therefore, he maintained that no one is able to be one's own supervisor in sexual matters. Consequently, he is very strict in regard to laws that deal with sexual purity. His attitude toward laws that deal with problems of marriage, suspected adultery are to be seen in the light of that view of human nature.

In the laws which deal with the problems of the whole community Rabbi Joshua's position is reasonable and pragmatic. Concerning the requirements of prayer, Rabbi Joshua opposed Gamaliel. He felt that the average man would consider it a burden to recite a long 'tefilla' therefore he devised a brief version of it for daily recital. Furthermore, he devised a brief version of the 'tefilla' which should be recited if one found oneself in a situation of danger. This consideration of the time - place element in the human situation renders his halaka in a significant light. This principle, which shows that Rabbi Joshua's approach to the halaka was basically pragmatic, is further substantiated by his attitude toward the requirements of study that should be placed on the average man. He asked merely for the study of two laws in the morning and two in the evening, and the rest of the day should be spent in work that is necessary to earn a living. By this approach, Rabbi Joshua achieves a dual purpose. One, he realistically assures the study

of the law by the common man, and second, he ascribes to the work that has to be done in a society, a certain aura of dignity. This attitude is probably influenced by his own position in life, which was that of a needlemaker. He knew the lot of the common man from first-hand experience and could therefore place reasonable demands upon the average man.

His voice commanded respect and consideration in the halls of the Sanhedrin. While he did not possess the political power of Gamaliel II, he was a universally respected scholar. The respect of his colleagues enabled him to exert a significant influence on the proceedings of the Sanhedrin. Rabbi Joshua exerted the dominant influence in the great debate between Rabbi Eliezer and the Scholars with respect to the role of miracles in the process of legislating the halaka.

His voice was the dominant one the day Rabbi Eliezer was excommunicated for his stubborn defense of the role of miracle, in the form of the 'Bat Kol,' in the process of rabbinic legislation. While this aspect of his halakic activity was primarily polemic in nature, directed against nascent Christianity, it nevertheless had a lasting influence on the role of miracle in future legislation. After the excommunication of Rabbi Eliezer, the phenomenon of miracle was not invoked in the process of legislation for the purpose of deciding an issue of halaka.

Rabbi Gamaliel II was motivated in his actions to establish the unity of the people and the strengthening of the foundations of Judaism upon which that unity can be secure for the future. In this effort, Rabbi Joshua assisted Gamaliel, although Rabbi Joshua maintained an independent approach to the halaka.

Conclusion and Evaluation

Rabbi Joshua ben Chananya was one of the significant members of the Second Generation Tannaim. (80-120. C.E.) Rabbi Joshua, as he is generally called, was a native of Jerusalem, son of a Levite family. As a young man he was a chorister in the Temple. He was one of the very few among the Tannaim of Yavneh, who had a personal experience of the Temple while it was still standing. His life spans a turbulent and tragic period in Jewish history.

Shortly prior to the destruction of the Temple and the sacking of Jerusalem by the Roman legions, Rabbi Joshua left Jerusalem in the company of his revered teacher whom he saved with the aid of Rabbi Eliezer ben Hyrcanus. Rabbi Joshua settled in Yavneh. There, he became one of the most influential members of the new Sanhedrin which was established by Rabbi Jochanan ben Zakkai. Under the presidency of Gamaliel II, Rabbi Joshua served as 'Ab Beth Din' or vice-president. In the deliberations of the Sanhedrin, Rabbi Joshua exerted a great and moderating influence on the legislative proceedings. The Sanhedrin was confronted with the great task of laying the foundations of a future and viable Judaism. The Temple and the sacrificial mode of worship, which was an integral part of the social, political and religious life of the people, lay now in ruins.

The people were demoralized and exhausted from the terrible blows that the war has inflicted upon them.

Rabbi Jochanan ben Zakkai established the Sanhedrin of Yavneh as

the new center of religious authority. He did not intend to replace Jerusalem by Yavneh. This was not his intent. Rather, Rabbi Jochanan ben Zakkai looked toward the future and laid the foundation of a Judaism that was viable without necessitating the sacrificial system of worship. The Law and its development became the central theme of the Sanhedrin, and the primary guardian of Jewish survival.

Gammaliel II succeeded Jochanan ben Zakkai to the presidency. He was an able and forceful leader of the Sanhedrin who labored ceaselessly in behalf of the unity of Israel. Although extremely capable, his aristocratic and often authoritarian manner of presiding over the Sanhedrin, irked the Scholars and brought about his eventual impeachment and removal from the office of the presidency. The direct cause of Gammaliel's impeachment and removal from the office of the presidency was, Rabbi Joshua. As the Vice President of the Sanhedrin, Rabbi Joshua disagreed with Gammaliel on numerous occasions in matters of halaka. Gammaliel would not tolerate any dissention from his view on the part of the Vice President. He therefore attempted to disgrace Rabbi Joshua in the presence of the Sanhedrin. It is the considered opinion of this writer that Gammaliel intentionally embarrassed Rabbi Joshua, in order to silence all opposition to his rule. For if Gammaliel could succeed in silencing Rabbi Joshua who was, next to Gammaliel second in authority, then all the other scholars would fall in line. Gammaliel II failed in this and it is the only failure that mars a brilliant record of service in behalf of the welfare of Israel. Eventually Gammaliel II was reinstated as President, but not before he apologized to Rabbi Joshua.

Rabbi Joshua represented the more rational and conciliatory elements of his generation. His debates were primarily with Rabbi Eliezer ben Hyrcanus, to whose unyielding conservatism he formed a sharp contrast. Rabbi Joshua combined great learning with the virtues of gentleness and true humility. Above all, he was an independent spirit. He did not depend on the good opinion of the President for his livelihood. He had a trade and earned his bread by the sweat of his brow. He was a needlemaker and lived in very humble surroundings.

In his approach to halaka, Rabbi Joshua is reasonable and pragmatic, exhibiting a tendency toward leniency. He did not wish the law to become a burden to the community. Consequently, the underlying principle to Rabbi Joshua's halaka is the principle that no legislation should be enacted which is a burden to the majority of the community.

In his efforts to preserve the unity of Israel and Judaism, he often entered into debates with Jewish Christians and members of other sects. He was opposed to all excesses, be it in legislation or in matters of doctrine; nevertheless he maintained that every righteous man has hope for eternal salvation regardless of his religion. In this respect he shows a greater sense of universalism than any man of his day. Perhaps his universalistic tendencies are related to his lenient demands of proselytes. The Rabbis demanded circumcision as well as ritual immersion. Rabbi Joshua demanded only ritual immersion. As a matter of fact, he welcomed proselytes, and he was credited with the conversion of Aquilas who under his guidance translated the Bible into Greek.

Rabbi Joshua advocated as a matter of principle that one should act kindly toward any man. Conversely, he considered that hate is the most destructive force in human life. He even maintained that hate of humankind can eventually destroy the world.

Toward the Imperial Roman Government, Rabbi Joshua advocated a policy of cooperation. He would not be a party to any political rebellion because he was convinced that the avenue of rebellion was suicidal for a small nation. Thus the historians speak of Rabbi Joshua as the good teacher, counsellor and benefactor of his people.

Rabbi Joshua is not as famous as his colleague, Gamaliel II, nor as his disciple, Akiba, the brilliant interpreter of the law, but he performed a task well as the gentle and humble teacher of the law and the defender of Israel. He was blessed with a long life and with the universal esteem of his contemporaries. His labors in behalf of Judaism were not in vain, for he raised up many disciples who carried on the work long after his demise and thus the future of Judaism made possible. Long after the last colours of the Roman legions were laid in the dust, the banner of Judaism is still unfurled, a witness to the vision and wisdom of men like Rabbi Joshua and the indomitable Faith of Israel.

Footnotes, Chapter One

1. Eil Schurer, A History of the Jewish People in the Time of Jesus,
Edited by Nahum Glatzer. Schocken Books, New York,
1961. p. 272.
2. Ibid.
3. Gittin, 56a.
4. Ibid.
5. Aboth d'Rabbi Nathan, ed. S. Schechter. New York, 1945.
6. Rosh Ha'Shonoh iv, 1.
7. Rosh Ha'Shonoh 24b-25a.
8. Kelim, V, 4.
9. Schurer, E. op. cit., p. 287.
10. Heinrich Graetz, History of the Jews, Philadelphia, Jewish Publica-
tion Society, 1893. Vol. II, p. 334-5.
11. Baba Metsiah, 59b.
12. Ibid.
13. This matter shall be discussed fully in the following chapter.
14. Baba Kama, 74b.
15. Sanhedrin, 32b.
16. Hagigah 3a.
17. Aboda Zarah 10b.
18. Bereshith Rabba c. 64.
19. Schurer, E., op. cit., p. 294.
20. Graetz, H., op. cit., p. 404.

Footnotes, Chapter Two

1. Arakin, 11b.
2. Yer. Yebamoth, 3a.
3. Aboth d'Rabbi Nathan, xiv.
4. Aboth, II:8.
5. Pesachim, 49a.
6. Sotah, 48a.
7. Baba Bathra, 60b.
8. Shabbath, 153b.
9. Ibid.
10. Aboth, II:11.
11. Isaac Hirsch, Weiss, 'Dor Dor Ve'Dorshav, Vilna, 1904. Vol. II, p. 83.
12. Weiss, op. cit., p. 85.
13. Ibid.
14. Rosh Ha'Shonoh, 24b-25a.
15. Eduyoth, vii, 7.
16. Bekoroth, 36a.
17. Berakot, 29a.
18. Berakot 27b.
19. Berakoth 28a.
20. Ibid.
21. Nedarim 50b.
22. Mekilta d'Rabbi Ishmael, Friedman. Om Publishing Company, New York, 1958. p. 59.

I am indebted to Dr. Moshe Arie Kahana for this particular interpretation of this midrash.

23. Erubin, 53b.
24. Abodah Zarah, 54b.
25. Hullin, 59b-60a.
26. Megillah, 15b.
27. Sanhedrin, 68a.
28. Yer. Sanhedrin, i, 2.
29. Aboth IV:3.
30. Hagiga 5b.

Footnotes, Chapter Three

1. Baba Bathra 60b.
2. Tosefta Hagiga i, 9.
3. Ibid.
4. See, Alexander Guttman, "The Significance of Miracles For Talmudic Judaism." (Hebrew Union College Annual XX). Cincinnati, 1940.
5. Guttman, A., Op. Cit., p. 386.
6. Berakoth, 28b, 29b.
7. Berakoth, 9b.
8. Bezah, 15b.
9. Mekilta, Amsterdam 1712. P. Beshalach, p. 32.
10. Eduyoth, viii, 7.
11. Berakoth, 28a.
12. Yebamoth, 46a.
13. Ketuboth, 13b.
14. Ketuboth, 13a.
15. Yebamoth, 122a.
16. Yebamoth xiii, 7.
17. Sotah 2a.
18. Sotah 31a.
19. Yebamoth IV, 13.
20. Yebamoth 108a.
21. Yebamoth 62b.

22. Moed Katan 21a.
23. Baba Bathra 60b.
24. Yer. Shabbath i, 4.
25. Koheleth Rabba, vii, 8.
26. Erubin 80a.
27. Koheleth Rabba, I, 8.
28. Hagigah, 5b.
29. Ibid.
30. Erubin, 101a.
31. Tosefta Sanhedrin, 13:2.
32. Sanhedrin 97b-98a.
33. Niddah 69b-71a.
34. Hullin, 59b-60a.

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